

***United States Court of Appeals  
for the Second Circuit***



**PETITION FOR  
REHEARING  
EN BANC**



# 75-14083

IN THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

B/S

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UNITED STATES OF AMERICA,  
Plaintiff-Appellee,  
versus  
ISADORE MARION,  
Defendant-Appellant.

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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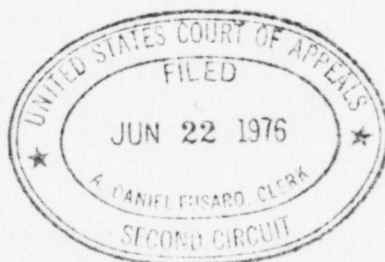
PETITION FOR REHEARING AND SUGGESTION FOR REHEARING EN BANC

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Attorneys for Appellant



# 75-1408

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FOR THE SECOND CIRCUIT

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NO. 75-1408

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UNITED STATES OF AMERICA,  
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versus  
ISADORE MARION,  
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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
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PETITION FOR REHEARING AND SUGGESTION FOR REHEARING EN BANC

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TO THE HONORABLE JUDGES KAUFMAN, Chief Judge, SMITH and ANDERSON,  
Circuit Judges, Being the Judges of the Panel in the Above Cap-  
tioned Case:

This is a Petition for Rehearing pursuant to Rule 40 of  
the Federal Rules of Appellate Procedure, and Suggestion for Re-  
hearing En Banc pursuant to Rule 35 of the Federal Rules of Appel-  
late Procedure, from the Order and Opinion of this Honorable  
Court entered May 7, 1976, affirming in part and reversing in  
part the judgment of conviction in the United States District  
Court for the Southern District of New York, WILLIAM C. CONNER,

SPN 301104 EIBEH



Judge, for Perjury, 18 U.S.C. § 1623(c), and Obstruction of Justice, 18 U.S.C. § 1503.

This Honorable Court reversed Count 1 (Perjury, pursuant to 18 U.S.C. § 1623(c)) and Count 2 (Obstruction of Justice, pursuant to 18 U.S.C. § 1503). The Court affirmed Appellant's conviction as to Count 3 (Obstruction of Justice, pursuant to 18 U.S.C. § 1503).

In reaching its conclusion the Appellate Panel reversed the convictions on the basis that conversations intercepted which led to the indictment clearly related to offenses "other than those specified" in State wiretap orders, and since the Government failed to obtain subsequent judicial approval required by 18 U.S.C. 2517(5) the convictions had to be reversed.

It was Appellant's position that Count 3 also should have been reversed on the basis that the Federal statute requires that subsequent judicial approval be made by Federal Judges as to the usage of intercepted conversations in Federal proceedings, when the interception was originally garnered as a result of a State Court wiretap order.

It is submitted that if this Petition is granted, Appellant be permitted to reargue the matter in the interest of justice.

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U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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The time to file this Petition for Rehearing with  
Suggestion for Rehearing En Banc was extended to June 21, 1976,  
and Appellant hereby claims the three-day mailing period.

Respectfully Submitted:

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Attorneys for Appellant

By *Oscar B. Goodman* *by* *lr*  
OSCAR B. GOODMAN

CERTIFICATE OF SERVICE BY MAILING

The undersigned hereby certifies that two (2) true and  
correct copies of the above and foregoing Petition for Rehearing  
And Suggestion for Rehearing En Banc was, on this 21st day of  
June, 1976, mailed, postage prepaid, to CARL M. BORNSTEIN, Special  
Attorney, United States Department of Justice, Organized Crime &  
Racketeering Section, One St. Andrew's Plaza, New York, New York  
10007.

*Linda C. Rogers*  
LINDA C. ROGERS